
**Local Government (Miscellaneous Provisions) Act 1982 – Schedule 4
Changes to Street Trading Controls**

Report by the Report by the Director of Communities

1. Summary

- 1.1 Members are requested to consider changing the designation under the above act of two streets in the town centre that are currently designated ‘prohibited’ streets for street trading purposes. This report seeks to change their designation to that of ‘consent’ street so allowing the provision of occasional street markets, subject to the required permissions.

2. Background

- 2.1 Street Trading means the selling, or exposing, or offering for sale, of any article in a street. A street for the purposes of this definition includes any road, highway, footway, beach or other area to which the public have free access without payment.
- 2.2 In 1988 Worthing Borough Council first adopted controls under the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the act) to control street trading in certain areas of the town centre where complaints had been received regarding the conduct of some street traders. Over the years other areas have been added to the list of streets in which street trading is regulated.
- 2.3 In much of Worthing town centre the streets are designated ‘prohibited’ for street trading. No street trading of any description is allowed in these ‘prohibited’ streets and the council under this act has no power to make exception. (Appendix A)
- 2.4 The pedestrianised part of Montague Street, Montague Place, and South Street Square are exceptions and are designated ‘consent’ streets under the act. In these areas street trading may be permitted upon successful application to the Council.
- 2.5 The Council allows markets organised by Worthing Town Centre Initiative (WTCI) and a limited number of street trading stalls in these ‘consent’ streets under licence but has a strict policy that vendors are not competing with local shops, not selling fast food, not operating from a van or trailer and are adding colour to the town.

- 2.6 An enquiry has been received by the Licensing Unit seeking permission to stage occasional street markets in Bath Place. The enquirer has investigated the possibility of putting a road closure in place to hold a monthly market on a Saturday. Starting with a trial of four initially. His proposals include a young entrepreneur's market to be held as part of said market, teaching youngsters about trading. The proposal suggests 8 small stalls for the young entrepreneurs to sell from alongside 15 professional stalls.
- 2.7 In addition, WTCI have suggested that Portland Road (south of Shelley Road) would be their preferred temporary site for Worthing's Wednesday market whilst Montague Street is being refurbished & repaved. This work is expected to start later this year or early in 2015.
- 2.8 The current designation of Bath Place and Portland Road as 'prohibited' streets does not allow either proposed market to go ahead.

3. Proposal

- 3.1 To change the street designation of Bath Place & Portland Road (South of Shelley Road) from 'prohibited' to 'consent' to allow the council's licensing unit to administer and issue permits to trade in these streets as part of any organised street markets.

4. Consultation & Representations

- 4.1 On 6 May 2014 Cllr. Rogers, as chair of the Licensing & Control Committee, authorised the publishing of a notice of intention to pass a resolution (subject to member's approval) designating the following 'prohibited' streets as 'consent' streets for the purposes of street trading:
- Bath Place
 - Portland Road (From the junction of Shelly Road to Montague Street)
- 4.2 The public notice was published on 15 May 2014 and at the time of drafting this report no public representations had been received. (Appendix B)
- 4.3 In accordance with the legislative requirements Sussex Police and WSCC Highway Authority were consulted. In addition the WTCI was consulted. At the time of drafting this report no authority representations had been received.
- 4.4 Copies of any representations received will be produced at the hearing.
- 4.5 In accordance with legislative requirements the date any resolution comes into effect must be not less than one month from the date the resolution is made. If this committee passes a resolution the Council must publish a further public notice on two consecutive weeks, the first publication to be not less than 28 days before the day specified for the resolution to come into force.

5. Consideration

- 5.1 Members must take into consideration the following when determining this matter:
- Adur & Worthing's Street Trading Guidance (Appendix C)
 - The relevant representations from all parties. (Appendices D)
- 5.2 When considering this matter the following options are available to the Committee:
- a. Grant the change in designation as requested,
 - b. Grant the change in designation as requested, with additional conditions imposed appropriate to safeguarding the area.
 - c. Reject the whole or part of the proposal.
- 5.3 Members are required to give reasons for their decision.

6. Legal Implications

- 6.1 In determining this matter the principles of the Human Rights Act 1998 must be taken into consideration and the convention rights of both individuals and businesses given due weight.
- 6.2 Members must consider each licensing matter on its own merits, and in accordance with the principles of natural justice, as well as the provisions of the Local Government (Miscellaneous Provisions) Act 1982. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 6.3 All licensing matters, before Committee, must be considered against the backdrop of anti-discriminatory legislation, such as the Equality Act 2010 and also in accordance with the Council's stated policy on Equal Opportunities.
- 6.4 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself. In giving "due regard" to these possible implications members will consider and weigh up all the information available and representations made, including those from interested parties and the responsible authorities particularly the Police.

7. Other Implications

- 7.1 Any decision taken will have regard for the local environment and, in particular, any conditions attached for the purposes of preventing public nuisance will take this principle into account.

7.2 There are no significant direct race relations, crime & disorder, equal opportunities or financial implications arising from this report. Crime and disorder, and environmental implication have been considered.

8. Recommendation

8.1 **Members are recommended to resolve to re- designate Bath Place and Portland Road (From the junction of Shelly Road to Montague Street) as consent streets for the purposes of street trading in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982, such resolution to come into effect on 27 July 2014.**

John Mitchell
Director of Communities

Principal Author and Contact Officer:

Simon Jones

Senior Licensing Officer - Tel: 01273 263191 or simon.jones@adur-worthing.gov.uk

Background Papers:

- Local Government (Miscellaneous Provisions) act 1982 – Schedule 4
<http://www.legislation.gov.uk/ukpga/1982/30/contents>
- Adur & Worthing Councils' Guide to Street Trading
<http://www.adur-worthing.gov.uk/licensing-and-permits/streets-highways-towns/>

Appendices:

- Appendix A - Plan of area.
- Appendix B – Copy of Public Notice
- Appendix C – Guidance Notes for Street Traders
- Appendices D - Representations received

Commerce Way, Lancing

Ref: SJ/Lic.U/Street Trading

Date: 6 June 2014.

Plan of Area



Red – Prohibited
Yellow - Consent

Copy of Public Notice

Published 15 May 2014 in Worthing Herald



PUBLIC NOTICE

**WORTHING BOROUGH COUNCIL
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
STREET TRADING**

The Council hereby gives notice of intention to pass the following resolution in accordance with the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Draft Resolution: The Council hereby changes the designation of the following 'prohibited streets' to 'consent streets' for the purposes of street trading:

**BATH PLACE
PORTLAND ROAD (From the junction of Shelly Road to Montague Street)**

To allow street trading, subject to the required permit, on an occasional basis as part of an organised market.

Any representations regarding this proposal should be submitted in writing within 28 days of this notice to the:

**Licensing Unit, Health, Housing & Community Safety,
Adur & Worthing Councils,
9 Commerce Way, Lancing, BN15 8TA**

Guidance Notes for Street Trading



Licensing Unit, 9 Commerce Way, Lancing, BN15 8TA

Guidance Notes for Applicants for Street Trading Consent in Worthing Town Centre

Worthing Borough Council has a strict policy governing street trading:

1. Applications for street trading consents within the town centre will only be considered in respect of Montague Street, Montague Place and South Street (northern end) which are the only designated "consent" streets under the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act, 1982.
2. Applications will be considered on individual merit but are only likely to be given consent in exceptional cases where the proposed activity will add colour and interest to the local environment.
Consents will NOT be granted where:-
 - (a) the proposed trading would compete directly with shops and businesses in the vicinity;
 - (b) the proposed trading would have an undesirable effect on the character of the area, create excessive obstruction, lead to an increase in litter or over-use of the area.

Trailers and mobile vans or the like will not normally be permitted.

All Street Trading consent will be subject to the following conditions:-

The Trader shall:

1. not trade otherwise than on the days and between the times specified in the consent;
2. not trade otherwise than at the location specified in the consent;
3. not trade in any articles other than those specified in the consent;
4. keep the consent so that it can be immediately produced for inspection by an authorised Officer of Worthing Borough Council or a Constable;
5. hold public liability insurance cover in the sum of £5,000,000 to cover injuries or loss to members of the public;
6. remove all litter from the site at the end of each period of trading;
7. not cause obstruction in the street or danger to persons using it;
8. not cause any nuisance or annoyance to any person (whether using the street or otherwise).

Representations

No representation has been received to date but copies of any forthcoming will be supplied to members at the meeting.